

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

DENNIS E. MCCLENDON,

Plaintiff,

v.

SECRETARY OF CDCR, et al.,

Defendants.

No. 2:21-cv-02088-DAD-AC (PC)

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS AND DISMISSING
THIS ACTION

(Doc. Nos. 1, 7, 10)

Plaintiff Dennis E. McClendon is a state prisoner appearing *pro se* and *in forma pauperis* in this civil rights action brought pursuant to 42 U.S.C. § 1983. This matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On November 8, 2022, the assigned magistrate judge issued findings and recommendations recommending this action be dismissed, without prejudice, pursuant to Federal Rule of Civil Procedure 41(b) due to plaintiff's failure to prosecute this action. (Doc. No. 10.) Specifically, plaintiff has failed to comply with the court's order dated September 26, 2022 (Doc. No. 7), in which plaintiff's original complaint was dismissed and plaintiff was directed to file an amended complaint within thirty days. (*Id.*) The findings and recommendations were served on plaintiff and contained notice that any objections thereto were to be filed within fourteen (14) days after service. (*Id.*) To date, no objections to the findings and recommendations have been filed, and the time in which to do so has now passed.

1 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C), this court has conducted a
2 *de novo* review of the case. Having carefully reviewed the entire file, the court concludes that the
3 findings and recommendations are supported by the record and by proper analysis.

4 Accordingly:

- 5 1. The findings and recommendations issued on November 8, 2022 (Doc. No. 10) are
6 adopted in full;
- 7 2. This action is dismissed, without prejudice, due to plaintiff's failure to prosecute
8 this action;
- 9 3. Plaintiff's pending motion for injunctive relief (Doc. No. 1) and the pending
10 findings and recommendations addressing that motion (Doc. No. 7) have been
11 rendered moot by this order and the motion for injunctive relief is therefore denied
12 as moot; and
- 13 4. The Clerk of the Court is directed to close this case.

14 IT IS SO ORDERED.

15 Dated: **January 6, 2023**

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18 UNITED STATES DISTRICT JUDGE
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